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EXAMINER

SHAIKH, MOHAMMAD Z

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3694

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ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/567,957	Applicant(s) FAJARDO, ALFREDO C.	
	Examiner MOHAMMAD Z. SHAIKH	Art Unit 3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25,50-75 and 80-82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25,50-75 and 80-82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is in response to an amendment received on 12/27/10 for patent application 10,567,957.

Status of Claims

2. Claims 1-25, 50-75, and 80-82 are pending.
3. Claims 1, 6, 18, 50, 54, 64, 69 and 71 are amended.

Claim Rejections- 35 U.S.C § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5, 17-23, 63-66, 69-74, 80-82 are being rejected under 35 U.S.C 103(a) as being unpatentable over UK PATENT APPLICATION (GB 2372615) to MacNamee in view of US 2003/0014361 to Klatt et al, herein Klatt .

Regarding claim 1, MacNamee discloses a system for facilitating payment via a communications network using value accredited to a customer of an operator of the communications network, the system comprising: a first communications device owned and/or operated by the customer, the first communications device operable via the communications network and the communications message being sent by means of the first communications device (Abstract; Fig 2). However MacNamee does not disclose a

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payment facilitator operable independently from control of the operator of the communications network. Klatt discloses a payment facilitator operable independently from control of the operator of the communications network ([0020]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify MacNamee's invention to include a payment facilitator operable independently from control of the operator of the communications network. One of ordinary skill in the art would have been motivated to include a payment facilitator operable independently from control of the operator of the communications network in order to ensure that the security of all transactions is maintained by maintaining a separation between the payment facilitator and the network operator. Upon further review of the MacNamee reference, MacNamee does disclose a billing system operable to provide billing functions to the operator for use of the communications network, both the customer and the payment facilitator each having at least one account with the operator and recorded with the billing system; and a recipient, where, when the payments facilitator receives a communications message from the customer, the payments facilitator operates to instruct the billing system to debit an amount to be paid to the recipient from the customer's at least one account and operates to instruct the billing system to credit the amount to be paid to the recipient to the payments facilitator's at least one account and, wherein, the payments facilitator then operates to make a payment to the recipient equal to the amount to be paid (Fig 4: Payment server (100), Mobile Phone Billing System (110); pgs 17-18).

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Regarding claim 16, MacNamee discloses a system for facilitating payment according to claim 14 or claim 15. MacNamee further discloses where the payments facilitator identifies the recipient by comparing a unique merchant identifier embodied in the communications message, associated with the destination address, or included within the destination address, as appropriate, against unique merchant identifiers stored in a merchant look-up table, each unique merchant identifier in the merchant look-up table being associated with further information in respect of the merchant (page 23).

Claim 2 is being rejected using the same rationale as claim 1.

Claim 3 is being rejected using the same rationale as claim 2.

Claim 4-5, using the same rationale as claim 1.

Regarding claim 17, MacNamee discloses the system for facilitating payment to claim 1 or 6. MacNamee further discloses where the instruction to the billing system to debit the amount to be paid takes the form of a command representative of the customer (pages 17-18). MacNamee further discloses using the first communication device having a tariff rate closest to the amount to be paid to the recipient (page 2).

Regarding claim 18, MacNamee discloses a system for facilitating payment via a communications network using value accredited to a customer of an operator of the communications network, the system comprising: a first communications device owned and/or operated by the customer, the first communications device operable via the communications network and a recipient (Abstract; Fig 2). However MacNamee does not disclose a payments facilitator operable independently from control of the operator of

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the communications network. Klatt discloses a payment facilitator operable independently from control of the operator of the communications network ([0020]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify MacNamee's invention to include a payment facilitator operable independently from control of the operator of the communications network. One of ordinary skill in the art would have been motivated to include a payment facilitator operable independently from control of the operator of the communications network in order to ensure that the security of all transactions is maintained by maintaining a separation between the payment facilitator and the network operator. MacNamee discloses where, when the payments facilitator receives a communications message from the customer, the communications message being sent by means of the first communications device a billing system operable to provide billing functions to the operator for use of the communications network, both the customer and the recipient each having at least one account with the operator and recorded ,with the billing system; and a payments facilitator, the payments facilitator issues an instruction to the billing system in the form of a command representative of the customer having initiated a communication using the first communication device and operates to issue an instruction to the billing system in the form of a command representative of the recipient having made a payment to the operator equal to the amount to be paid to the recipient (Fig 4: Payment server (100), Mobile Phone Billing System (110); pgs 17-18).

McNamee further discloses the first communication device having a tariff rate closest to the amount to be paid to the recipient (page 2).

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Claims 19-23, 63-66, 74, 80-82 are being rejected using the same rationale as claim 18.

Claims 69-70 are being rejected using the same rationale as claim 1.

6. Claim 6, 71-73 are being rejected under 35 U.S.C 103(a) as being unpatentable over MacNamee in view of Klatt and further in view of US 2002/0073027 to Hui et al, herein Hui.

Regarding claim 6, all limitations are disclosed by claim 1, except "the payments facilitator communicates with the recipient to specify an amount to be transferred prior to making the transfer". Hui discloses the payments facilitator communicates with the recipient to specify an amount to be transferred prior to making the transfer (Abstract). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify MacNamee's invention to include the payments facilitator communicates with the recipient to specify an amount to be transferred prior to making the transfer. One of ordinary skill in the art would have been motivated to include the payments facilitator communicates with the recipient to specify an amount to be transferred prior to making the transfer in order to ensure that all parties are made aware of the pending transaction before it is settled.

Claims 7-16 are being rejected using the same rationale as claim 6.

Claims 71-73 are being rejected using the same rationale as claim 6.

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7. Claims 50-62, 67 are being unpatentable over MacNamee in view of US 2005/0131839 to Cordery et al, herein Cordery.

Regarding claim 50, MacNamee discloses a method of facilitating payment via a communications network using value accredited to a customer of the operator of the communications network, the method comprising the steps of: (a) receiving a communications message from the customer sent by means of a first communications device operable via the communications network (Abstract; Fig 2) ;(b) instructing a billing system operable to provide billing functions to the operator for use of the communications network to debit an amount to be paid to a recipient from the customer's at least one account with the operator and recorded with the billing system ; (c) instructing the billing system to credit the amount to be paid to the recipient to an account with the operator and recorded with the billing system, (Fig 4: 130, 110, 112, 114, 100, 102, 104; pages 17-18). However MacNamee does not disclose the account being owned by a third party for facilitating payment between the customer and the recipient, the third party being neither the customer nor the recipient, (d) arranging payment of the amount paid to be made by the third party to the recipient. Cordery discloses the account being owned by a third party for facilitating payment between the customer and the recipient, the third party being neither the customer nor the recipient (d) arranging payment of the amount to be paid to be made by the third party to the recipient (Abstract, [0066]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify MacNamee's invention to include the account being owned by a third party for facilitating payment between the customer and

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the recipient, the third party being neither the customer nor the recipient, (d) arranging payment of the amount paid to be made by the third party to the recipient. One of ordinary skill in the art would have been motivated to include the account being owned by a third party for facilitating payment between the customer and the recipient, the third party being neither the customer nor the recipient, (d) arranging payment of the amount paid to be made by the third party to the recipient in order to ensure that all transactions are conducted in a secure manner.

Claims 51-53 are being rejected using the same rationale as claim 50.

7. Claims 54-62, 67 are being rejected under 35 U.S.C 103(a) as being unpatentable over MacNamee in view of US 2002/0073027 to Hui et al, herein Hui.

Regarding claim 54, MacNamee discloses a method of facilitating payment via a communications network using value accredited to a customer of an operator of the communications network, the method comprising the steps of: (a) receiving a communications message from the customer sent by means of a first communications device operable via the communications network (Abstract; Fig 2). However MacNamee does not disclose (b) communicating with a recipient, prior to paying the recipient, to specify the amount to be paid to the recipient, the recipient also being a customer of the operator. Hui discloses (b) communicating with a recipient, prior to paying the recipient, to specify the amount to be paid to the recipient, the recipient also being a customer of the operator (Abstract, [0069]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify MacNamee's invention to include communicating with a recipient, prior to paying the

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recipient, to specify the amount to be paid to the recipient, the recipient also being a customer of the operator. One of ordinary skill in the art would have been motivated to include communicating with a recipient, prior to paying the recipient, to specify the amount to be paid to the recipient, the recipient also being a customer of the operator in order to ensure that all payments are verified before the payment transaction is completed.

MacNamee further discloses (c) instructing a billing system operable to provide billing functions to the operator of the communications network to debit an amount to be paid to the recipient from the customer's at least one account with the operator and recorded with the billing system ; and (d) instructing the billing system to credit the amount to be paid to the recipient to the recipient's at least one account with the operator and recorded with the billing system (Fig 4: 130, 110, 112, 114, 100, 102, 104; pages 17-18).

Claims 55-62 are being rejected using the same rationale as claim 54.

Claim 67 is being rejected using the same rationale as claim 54.

8. Claims 24-25, 48, 68, 75 are being rejected under 35 U.S.C 103(a) as being unpatentable over MacNamee in view of Official Notice.

Regarding claim 24, MacNamee discloses a system for facilitating payment according to any preceding claims 1,6, or 18. MacNamee discloses an operation to instruct the billing system to debit a further amount from the customer's (page 17).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify MacNamee's invention to include an operation to instruct the billing

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system to debit a further amount from the customer's. One of ordinary skill in the art would have been motivated to include an operation to instruct the billing system to debit a further amount from the customer's in order to ensure that all parts of the billing process are available on one network. MacNamee does not disclose an account representative of commission and/or transaction costs. *Official Notice* is taken that commission and transactions pertaining to accounts are old and well known in the art. One of ordinary skill in the art would have been motivated to include that commission and transactions pertaining to accounts in order to ensure that the service provider is properly compensated.

Claim 25 is being rejected using the same rationale as claim 24.

Claim 68 is being rejected using the same rationale as claim 24.

Claim 75 is being rejected using the same rationale as claim 24.

RESPONSE TO ARGUMENTS

On page 17, of applicant's response, applicant argues that with regard to claims 1 and 69, that Morill does not disclose a payments facilitator/third party has an account with the operator of the communications network and that the payment facilitators account with the operator is recorded with the billing system. However upon further review of the MacNamee reference, in Fig 4, the payment server (100) which is akin to applicant's "payment facilitator" is linked to the telecommunications network (130), which is akin to applicant's "operator" therefore the payment server or "payment facilitator" has an account with the "operator of the communications network" Fig 4 of MacNamee shows the Mobile Phone Billing System (110) being linked to the payment server (100). Therefore the payment facilitators account is indeed recorded with the billing system. Applicant further argues that "the payments facilitator operable independently from control of the operator of the communications network." However, US 2003/0014361 discloses this limitation in [0020]: lines 8-14: "*The account-keeping device KFE is connected to a payment system ZS which, in turn, has a connection to an address-finding device ABE. The payment system ZS and the address-finding device ABE can be components of the communication network, but they can also be formed by independent units which are connected externally to the communication network*"

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Applicant further argues that regarding claim 6, the limitation, "the payment facilitator communicates with the recipient to specify an amount to be transferred prior to making the transfer" is not disclosed in MacNamee or Morill.

However, US 2002/0073027 to Hui discloses this limitation in the Abstract, "confirming the payment request by the operation center (the payment facilitator) by notifying the customer and requesting for verification; (e), the customer to verify the payment transaction by confirming the transaction.."

Applicant further argues, with respect to claim 50, Morill fails to teach, "an account being owned by a third party for facilitating payment between the customer and the recipient, the third party being neither the customer nor the recipient".

However US 2005/0131839 to Cordery discloses this limitation in the Abstract, and [0066].

Applicant further argues that regarding claim 71, MacNamee nor Morill do not teach, "exchange of communication message between payments facilitator and recipient for the recipient to indicate an amount to paid to the recipient"

However US 2002/0073027 to Hui et al, discloses this limitation in [0032]).

Therefore examiner is maintaining the rejection.

CONCLUSION

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MOHAMMAD Z. SHAIKH whose telephone number is (571)270-3444. The examiner can normally be reached on Monday-Friday (9:30-6:00); alt Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Tramell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

3/4/2011
/M. Z. S./
Examiner, Art Unit 3694

Mohammad Z Shaikh
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